

REMARKS

In the April 1, 2005 Office Action, claims 1 and 3-13 stand rejected in view of prior art, while claim 2 was indicated as containing allowable subject matter. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the April 1, 2005 Office Action, Applicants have amended claims 1, 2, 3 and 13 as indicated above. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. Thus, claims 1-13 are pending, with claims 1, 2, 3 and 13 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

Rejections - 35 U.S.C. § 102

On pages 2 to 4 of the Office Action, claims 1, 3, 4, 6-9 and 11-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,802,180 (the Gabe et al. patent). In response, Applicants have amended independent claims 1 and 13 to clearly define the present invention over the prior art of record. However, Applicant has amended claim 3 as an independent claim. Thus, Applicant traverses this rejection as it applies to claim 3. Moreover, Applicant traverses this rejection as it applies to claims 8, 9, 11 and 12 because these claims directly or indirectly depend from claim 2, which is indicated as containing allowable subject matter. Thus, Applicants respectfully request withdrawal of this rejection as explained below.

Claims 1, 4, 6, 7 and 13

Regarding claims 1, 4, 6, 7 and 13, independent claims 1 and 13 have been amended to recite that

the idling speed raising section or means is configured to set a target engine idling speed to a higher value than a normal engine idling speed when a deceleration of a vehicle is detected during the regeneration processing of the particulate matter filter by the regeneration processing section to raise the engine idling speed when the engine idles during the regeneration processing.

Clearly, this structure is **not** disclosed or suggested by the Gabe et al. patent or any other prior art of record. In particular, in the Gabe et al. patent, the idling speed is raised ***after it is determined that the engine is operating in the idling*** condition in step S21 of the Gabe et al. patent, the initial idling speed is low (normal) in the Gabe et al. patent. On the other hand, in the present invention of claim 1, as now amended, the target idling speed is raised ***when the deceleration is detected*** (prior to the idling of the engine). Thus, in the present invention, the initial idling speed will be the higher speed than the normal idling speed when the engine starts idling.

It is well settled under U.S. patent law that for a reference to anticipate a claim, the reference must disclose each and every element of the claim within the reference. Therefore, Applicants respectfully submit that claim 1, as now amended, is not anticipated by the prior art of record. Withdrawal of this rejection is respectfully requested.

Moreover, Applicants believe that dependent claims 1, 4, 6, 7 and 13 are also allowable over the prior art of record in that they depend from independent claim 1, and therefore are allowable for the reasons stated above. Also, dependent claims 1, 4, 6, 7 and 13 are further allowable because they include additional limitations. Thus, Applicants believe

that since the prior art of record does not anticipate the independent claim 1, neither does the prior art anticipate the dependent claims.

Applicants respectfully request withdrawal of the rejection.

Claim 3

Applicant has amended claim 3 as an independent claim because Applicant respectfully submits that the Gabe et al. patent fails to anticipate claim 3. In particular, claim 3 requires raising the engine idling speed for a prescribed amount of time and after the prescribed amount of time has elapsed ***returning the engine idling speed to a normal idling speed value*** when the engine idles during the regeneration processing of the particulate matter filter. As clearly described in the flowchart of Figure 2 in the Gabe et al. patent, the high idling engine speed is maintained as long as the idling condition exists during the regeneration control (loop of steps S21 to S25). In other words, the Gabe et al. patent fails to disclose or suggest returning the engine idling speed to a normal idling speed value after the prescribed amount of time has elapsed.

Applicants respectfully request withdrawal of the rejection.

Rejections - 35 U.S.C. § 103

On pages 4 and 5 of the Office Action, claims 5 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,802,180 (the Gabe et al. patent) in view of U.S. Patent No. 4,535,588 (the Sato et al. patent). In response, Applicants have amended independent claim 1 as mentioned above. Also Applicant traverses this rejection as it applies to claim 10 because this claim indirectly depends from claim 2, which is indicated as containing allowable subject matter. Thus, Applicants respectfully request withdrawal of this rejection as explained below.

As mentioned above, independent claim 1 has been amended to recite that the idling speed raising section is configured to set a target engine idling speed to a higher value than a normal engine idling speed *when a deceleration of a vehicle is detected* during the regeneration processing of the particulate matter filter by the regeneration processing section to raise the engine idling speed when the engine idles during the regeneration processing. This structure is *not* disclosed or suggested by the Gabe et al. patent or any other prior art of record as mentioned above. The secondary reference (the Sato et al. patent) fails to provide for the deficiencies of the Gabe et al. patent. Thus, any hypothetical control that would be developed based on this combination of references also fails to disclose or suggest independent claim 1 as now amended.

It is well settled in U.S. patent law that the mere fact that the prior art can be modified does *not* make the modification obvious, unless the prior art *suggests* the desirability of the modification. Accordingly, the prior art of record lacks any suggestion or expectation of success for combining the patents to create the Applicants' unique arrangement engine exhaust cleaning device as claimed.

Therefore, Applicants respectfully request that this rejection be withdrawn in view of the above comments and amendments.

Allowable Subject Matter

On page 5 of the Office Action, claim 2 was indicated as containing allowable subject matter. Applicants wish to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application.

In response, Applicants have amended claim 2 as an independent claim. Thus, independent claim 2 is believed to be allowable. Also Applicants note that since claims 8-12

Appl. No. 10/700,517
Amendment dated July 22, 2005
Reply to Office Action of April 1, 2005

is directly or indirectly depend from claim 2, which is indicated as containing allowable subject matter, dependent claims 8-12 are also believed to be allowable.

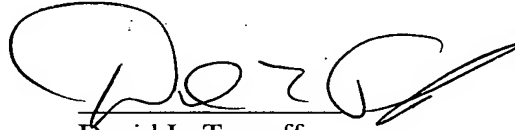
Prior Art Citation

In the Office Action, additional prior art references were made of record. Applicants believe that these references do not render the claimed invention obvious.

* * *

In view of the foregoing amendment and comments, Applicants respectfully assert that claims 1-13 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,



David L. Tarnoff
Attorney of Record
Reg. No. 32,383

SHINJYU GLOBAL IP COUNSELORS, LLP
1233 Twentieth Street, NW, Suite 700
Washington, DC 20036
(202)-293-0444
Dated: 7-22-05

G:\07-JUL05-MSMNS-US035109 Amdt.doc